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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,231	04/14/2006	Atsushi Yabe	4700.P0327US	7188
23474 7590 03/22/2010 FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1631				
EXAMINER BAREFORD, KATHERINE A				
ART UNIT 1792		PAPER NUMBER		
MAIL DATE 03/22/2010		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/576,231

Applicant(s)

YABE ET AL.

Examiner

Katherine A. Bareford

Art Unit

1792

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3 and 5-9.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Katherine A. Bareford/
Primary Examiner, Art Unit 1792

Continuation of 3. NOTE: the proposed amendment to claim 1, to change "containing" to "consisting essentially of a copper ion source, . . ." raises new issues that would require further consideration and/or search by the Examiner, since the scope of the claim as discussed in MPEP 2111.03 would have to be considered, and also noting claim 9, which depends on claim 1 through claim 8 would add a further material to the solution, raising further issues as to what is essential. As well the proposed amendment would raise 35 USC 112, second paragraph questions of antecedent basis in claim 8, where "a copper source" is used – would it be the same source now in claim 1?

Continuation of 11, does NOT place the application in condition for allowance because: As noted in Box 3 above, the proposed amendment has not been entered and the arguments have been considered as applied to the claims provided 10/14/09. The Examiner has reviewed applicant's arguments, however, her position is maintained. (A) as to the rejection using Shipley as the primary reference, the Examiner is of the position that motivation is provided by the secondary references to replace the formaldehyde of Shipley with the glyoxylic acid and phosphinic acid. As to Verbunt having additional ingredients prevented by the present invention, such as hydroxide, the Examiner notes that these are not prevented by the claims as worded, and furthermore, Verbunt is cited as to known reducing agents that can be used in copper electroless baths, which would be expected to work in other copper electroless baths, such as that taught by Shipley, because the reducing agent acts on the copper in the bath. As to the polymer not being present in Verbunt, the Examiner notes that the polymer is present in the primary reference to Shipley, the reference being modified. One of ordinary skill in the art would still expect the reducing agents of glyoxylic acid and phosphinic acid to work in Shipley as the cited references provide that they would be desirable replacements for formaldehyde, which is the reducing agent taught in Shipley. The Examiner remains of the position that comparing Verbunt alone to the claimed invention is not relevant, because the primary reference to Shipley has this polymer and also as well the combination provides the suggestion to use such a polymer. As to Kondo providing only the teaching to use sodium hypophosphite in combination with formaldehyde, the Examiner notes that Yoshida has been provided as providing the teaching that glyoxylic acid is a known replacement for formalin (formaldehyde), which has a similar structure and is believed to have an oxidation reaction mechanism similar to formalin, showing that similar behavior is expected from both as discussed in the Final Rejection of 1/5/10. As to the teaching of Yoshida, the Examiner has cited background information paragraphs of Yoshida (paragraphs [0005]–[0007]) indicating what is known generally to one of ordinary skill in the art. While the Examiner must consider the references as a whole, learning what would be general knowledge in the art and using this knowledge does not go against the references as a whole. (B) As to the rejection using Japan '779 as the primary reference, applicant argues that the secondary references do not suggest to modify '779 as described by the Examiner for reasons as discussed in (A) above. The Examiner maintains that it is proper to use the secondary references for the reasons as discussed in section (A) above. (C) As to the provisional obviousness-type double patenting rejection, applicant argues that the effects of the polymer and acids would not be present if not in the claimed range amounts, which is unexpected. The Examiner notes that these arguments do not apply to claims 6 and 7, which do not have such claimed ranges. As to the other claims, they are not unexpected because as noted in the Final Rejection of 1/5/10, paragraph 9, one is either directed to the specification of 12/075,745, which provides the claimed ranges, or one is directed to the references to Shipley, Verbunt, Kondo and Yoshida, which provide the suggestion of using the claimed amounts of materials.